

# MAYOR & COUNCIL AGENDA COVER SHEET

## MEETING DATE:

May 17, 2004

## CALL TO PODIUM:

Trudy Schwarz

## RESPONSIBLE STAFF:

Cathy Borten, City Attorney  
Trudy Schwarz, Community  
Planning Director

## AGENDA ITEM:

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
x	Joint Public Hearing
	Historic District
	Consent Item
	Ordinance
	Resolution
	Policy Discussion
	Work Session Discussion Item
	Other:

## PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	NA
Advertised	04/28/2004
	05/05/2004
Hearing Date	05/17/2004
Record Held Open	
Policy Discussion	

## TITLE:

### JOINT PUBLIC HEARING

T-364 - An ordinance to amend Chapter 24 of the City Code (City Zoning Ordinance), Article V, entitled, "Site Development Plans," §24-173 entitled, "Development of Property Subject to Plan," to allow additional extension of site development plans where such plans are the subject of appeal and to create subsections within §24-173.

## SUPPORTING BACKGROUND:

Currently Section 24-173 of the Zoning Ordinance, Chapter 24 of the City Code, allows for approval of a site plan for 365 days with the ability to request two extensions, which allows a site plan to be valid for a period of three years. Once the site plan approval expires, the property owner is required to re-apply for the final site plan approval process.

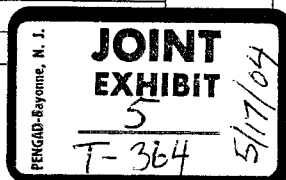
If a site plan expires while undergoing administrative appeals through the City, Montgomery County or State of Maryland, the property owner no longer has a valid site plan. Most property owners do not proceed with the development during the pendency of the appeals in order to avoid the risk of commencing construction only to receive an adverse decision regarding the development. In addition, if the site plan approval expires the property has to begin the entire review process again which also allows another administrative appeal period.

The proposed text amendment would allow site plans that are the subject of an administrative appeal the opportunity to be granted two additional one-year extensions.

*Attachments: Index of Memoranda and Exhibits*

## DESIRED OUTCOME:

City Council-record open 17 days, close June 3, 2004  
Planning Commission-record open 10 days, close May 27, 2004  
Planning Commission recommendation-June 2, 2004  
City Council-policy discussion June 7, 2004



**INDEX OF MEMORANDA**

**T-364**

1. Application for T-364
2. Proposed ordinance – T-364
3. Letter requesting advertisement of the joint public hearing in the *Gaithersburg Gazette* on April 28 & May 5, 2004, issues, and confirmation of (fax/email) transmittals
4. Notice of May 17, 2004, Joint Public Hearing as sent on May 3, 2004, and list of people/agencies notified of the hearing
5. Joint Public Hearing Mayor and Council Agenda Cover Sheet for May 17, 2004

Ordinance No. \_\_\_\_\_

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE  
(CITY ZONING ORDINANCE), ARTICLE V, ENTITLED,  
"SITE DEVELOPMENT PLANS," §24-173 ENTITLED,  
"DEVELOPMENT OF PROPERTY SUBJECT TO PLAN,"  
TO ALLOW ADDITIONAL EXTENSION OF SITE DEVELOPMENT PLANS  
WHERE SUCH PLANS ARE THE SUBJECT OF APPEAL  
AND TO CREATE SUBSECTIONS WITHIN §24-173

**T-364**

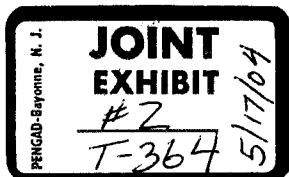
BE IT ORDAINED, by the Mayor and Council of the City of Gaithersburg in public meeting assembled, that Chapter 24, §24-173 of Article V of the City Code is hereby amended to read as follows:

ARTICLE V. SITE DEVELOPMENT PLANS

\* \* \*

**Sec. 24-173. Development of property subject to plan.**

- (a) One or more of the uses proposed for land which is the subject of the site development plan shall be established on such land within three hundred sixty-five (365) days after the date of approval of the plan or the plan shall become void; provided, that the planning Commission may extend such time upon request filed within such three hundred sixty-five (365) days and may grant further extensions upon request filed within the period of any extension; provided, that the total length of such extensions shall not exceed two (2) years. [Where the site development plan contemplates the construction of one or more new buildings or structures, the use shall be established within the meaning of this section when construction of one or more of such buildings has been commenced.]
- (b) Where an approved site development plan is the subject of an administrative appeal pursuant to §24-242, or where a site development plan is approved pursuant to a schematic development plan and that schematic development plan is the subject of an administrative appeal pursuant to §24-242, the planning commission may grant further extensions of the site development plan upon request filed during the pendency of such administrative appeal and within the period of any extension; provided, that the total length of all such additional extensions shall not exceed two (2) years. The additional extensions allowed by this subsection (b) shall apply to all timely filed requests for extensions filed by May 1, 2004.



- (c) Where the site development plan contemplates the construction of one or more new buildings or structures, the use shall be established within the meaning of this section when construction of one or more of such buildings has been commenced.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2004, by the City Council of Gaithersburg, Maryland.

\_\_\_\_\_  
DELIVERED to the Mayor of the City of Gaithersburg, Maryland, this \_\_\_\_ day of \_\_\_\_\_, 2004. APPROVED/VETOED by the Mayor of the City of Gaithersburg, this \_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
SIDNEY A. KATZ, Mayor

THIS IS TO CERTIFY that the foregoing Ordinance was adopted by the City Council of Gaithersburg, in public meeting assembled, on the \_\_\_\_ day of \_\_\_\_\_, 2004, and the same was approved by the Mayor of the City of Gaithersburg on the \_\_\_\_ day of \_\_\_\_\_, 2004. This Ordinance will become effective on the \_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
DAVID B. HUMPTON, City Manager



April 23, 2004

Karey Major, Law Section  
The Gaithersburg Gazette  
P.O. Caller 6006  
Gaithersburg, Maryland 20884

Dear Karey:

Please publish the following legal advertisement in the **April 28 and May 5, 2004**, issues of the *Gaithersburg Gazette*.

Sincerely,

Trudy Schwarz, Community Planning Director  
Planning and Code Administration

ASSIGN CODE: T-364 Acct# 133649

### NOTICE OF PUBLIC HEARING

The Mayor and Council and Planning Commission of the City of Gaithersburg will conduct a joint public hearing on T-364, filed by the City of Gaithersburg, on

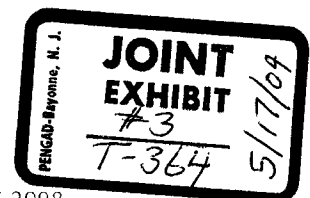
**MONDAY  
MAY 17, 2004  
AT 7:30 P.M.**

or as soon thereafter as this matter can be heard in the Council Chambers at 31 South Summit Avenue, Gaithersburg, Maryland.

The application requests amendment of Chapter 24 of the City Code (City Zoning Ordinance), Article V, entitled, "Site Development Plans," §24-173 entitled, "Development of Property Subject to Plan," so as to allow additional extension of site development plans where such plans are the subject of an administrative appeal and to create subsections within §24-173.

Further information may be obtained from the Planning and Code Administration Department at City Hall, 31 South Summit Avenue, between the hours of 8 a.m. and 5 p.m., Monday through Friday.

Trudy Schwarz, Community Planning Director  
Planning and Code Administration  
mg



City of Gaithersburg • 31 South Summit Avenue, Gaithersburg, Maryland 20877-2098  
301-258-6300 • FAX 301-948-6149 • TTY 301-258-6430 • cityhall@ci.gaithersburg.md.us • www.ci.gaithersburg.md.us

MAYOR  
Sidney A. Katz

COUNCIL MEMBERS  
Stanley J. Alster  
Geraldine E. Edens  
Henry F. Marraffa, Jr.  
John B. Schlichting  
Ann T. Somerset

CITY MANAGER  
David B. Humpton



CITY OF GAITHERSBURG  
31 South Summit Avenue  
Gaithersburg, Maryland 20877  
Telephone: 301-258-6330

### NOTICE OF JOINT PUBLIC HEARING

The City of Gaithersburg Mayor and Council and Planning Commission will conduct a public hearing at the time and place noted below.

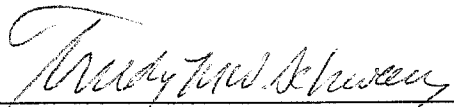
**Meeting:** MAYOR AND CITY COUNCIL  
**Application Type:** TEXT AMENDMENT  
**File Number:** T-364  
**Applicant:** TRUDY SCHWARZ FOR MAYOR & CITY COUNCIL  
**Day/ Date/Time:** MONDAY, MAY 17, 2004, AT 7:30 P.M.  
**Place:** COUNCIL CHAMBERS, GAITHERSBURG CITY HALL  
31 SOUTH SUMMIT AVENUE

#### \*\*\*IMPORTANT\*\*\*

This is a proposal to amend Chapter 24 of the City Code (City Zoning Ordinance), Article V, entitled, "Site Development Plans," §24-173 entitled, "Development of Property Subject to Plan," so as to allow additional extension of site development plans where such plans are the subject of an administrative appeal and to create subsections within §24-173. (A copy of the draft ordinance can be viewed at [www.ci.gaithersburg.md.us/notices](http://www.ci.gaithersburg.md.us/notices).) This is the first public hearing in a series of public opportunities to participate. Contact the Planning and Code Administration City Planner (listed below) at 301-258-6330 if you should have any questions and/or to learn more about this process and your ability to offer testimony and input.

Joint Mayor and City Council & Planning Commission meetings can be viewed live on Gaithersburg Cable Television Channel 13, and at anytime (on demand) two weeks after the public hearing via the Internet and Web TV at <http://www.ci.gaithersburg.md.us>.

CITY OF GAITHERSBURG

By:   
TRUDY MW SCHWARZ, Community Planning Director  
Planning and Code Administration



**NOTICES SENT THIS 3<sup>RD</sup> DAY OF MAY, 2004, TO:**

APPLICANT AND INTERESTED PARTIES

(A list of interested parties and agencies is available in the file in the Planning and Code Administration.)

MAYOR AND COUNCIL

PLANNING COMMISSION

CITY STAFF

David B. Humpton, City Manager  
Frederick J. Felton, Assistant City Manager  
Tony Tomasello, Assistant City Manager  
Cathy Borten, City Attorney  
Mary Beth Smith, Public Information Director  
Doris Stokes, Administrative Assistant  
Jeff Baldwin, City Web Administrator (via email)